

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, April 19, 2021, at 6:00PM telephonically and virtually.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
Councilwoman-----Kathy Penree
Councilman-----Vito Carbone
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis

Excused: Councilman-----Daniel Stalteri
Councilman-----Randy Kast
Highway Supt.-----David McManus
Deputy Attorney-----Kyle Crandall

03) Pledge of Allegiance to the Flag.

Supervisor Frank led us in the Pledge of Allegiance to the Flag.

04) Reading of the Minutes.

Motion by Councilman Carbone seconded by Councilwoman Penree, to accept and place on file the minutes of the previous Regular Meeting held on April 05, 2021 as written.

CARRIED AYES ALL

05) Public Meeting.

Supervisor Frank stated anyone from the public who would like to speak during our public meeting to please state your name, address and tell us why you are here.

Keith from 251 East Steele Street in Herkimer addressed the board about two issues. Keith asked the board what the fence rule is for two neighbors who share a fence on their property line. He stated that part of the fence has fallen down and his neighbor refuses to help fix the fence. Supervisor Frank stated that he is unsure how the village handles these issues. He also stated that the Town Board has no jurisdiction within the village and has no idea what their rules are.

Supervisor Frank gave the number for the Village. Councilwoman Penree stated that the village was also having a meeting the same night at 7 P.M., but she did not know the call-in number. Councilman Carbone gave Keith a number for a Ralph who could help.

Keith stated that he thanked them for the help and that his next issue who receive the same answer. He stated that the house next door to him is abandoned and there is a feral cat issue. Keith stated that the house is empty but the cats are around and the lady next door keeps feeding them. He mentioned that people are coming in and taking the cats to give them homes which is a good thing. Some of the adult cats were neutered but the problem persists. Keith stated they are all over his yard and on his furniture. He stated the cats are using the furniture as a litter box. Supervisor Frank responded to Keith by saying that it is another village issue. He also stated that he does not know the name of who they have for animal control. He advised Keith to call the same number and they will lead them in the right direction. Keith stated that he believes he spoke to Ralph and he advised him to attend the meeting. Councilwoman Penree stated that he might have meant the Village Meeting which also met the same night. She also stated that they might be meeting in person and she would try to find the number for him. Supervisor Frank stated they met at the Village Hall on Green Street by Police Department. Councilwoman Penree gave Keith a number to call into the meeting for the village.
Supervisor Frank asked if anyone else from the public wished to address the Board. He stated to Deputy Clerk Beach that they would keep the public meeting open in case someone else happened to call in and we just need to remember to close the public meeting later.

CARRIED AYES ALL

06) Petitions and Communications.

Motion by Councilman Carbone, seconded by Councilwoman Penree, to accept and place on file all the petitions and communications 6A through H listed below.

- A. A letter dated March 24, 2021 from the NBT Insurance Agency, filed by Tucker Lounsbury, regarding the Governmental Insurance Disclosure.
- B. A letter dated April 8, 2021 from the Mohawk Valley Economic Development District, Inc., Clean Energy Communities Coordinator, Amanda Kaier, regarding the NYSERDA Clean Energy Communities Program.
- C. A letter dated April 12, 2021 from CME Engineering Group D.P.C, Vice President Christopher R. Paolini, concerning the East German Street Extension Emergency Road Repair Project. Councilwoman Penree stated that she understands the cracks need to be filled correctly but they did not comment on the change of the slope of the road, how it sunk. Supervisor Frank stated that he had a discussion with Highway Superintendent McManus relative to the letter. He also stated that he asked Highway Superintendent McManus to review the letter, and hoped to have talk with him about the letter tonight to ask how he is proceeding. He also stated that the other subjects that CME engineers brought up to do is to restack the riprap. Supervisor Frank asked Highway Superintendent McManus to call and get some quotes because we do not have the equipment to do that job.
- Supervisor Frank advised Deputy Clerk Beach to place petitions and communications letter C under Old Business and table it until we have a conversation with the highway Superintendent. -Tabled
- D. A letter dated April 14, 2021 from the Herkimer County Legislature Chairman, Vincent J. Bono, regarding the Town of Herkimer's funding request for the West Canada Creek Landslide Prevention Scoping Project.
- E. A letter dated April 15, 2021 from the Town of Herkimer Codes and Zoning Enforcement Officer Ken Collis, regarding the FEMA Hazard Mitigation Grant Program/ DR-4472 Other Type Project- Sub application for project scoping.
Supervisor Frank stated that they submitted the Hazard Mitigation grant for Piper Rd. area to obtain enough grant money to hire an Engineering Firm to give us a remedy for this situation. He also stated that this is the second time the Homeland Security of the State of New York has asked for more information. Homeland Security of the State of New York requested support from the County and the State of New York for our applications which is the letters E, F and G under Petitions and Communications. Supervisor Frank stated that the other additional information they needed is the cost of the various repairs and maintenance on the roads in that area. He also stated that we were able to supply that information.
Supervisor Frank mentioned the home on Folts Rd that was condemned that Codes Enforcer Collis worked on a few years ago. He also stated we were to supply that information.
Supervisor Frank stated that the house sits where the back is not supported very since it sits too close to the drop-off. He sated the house is falling over the drop-off. Supervisor Frank is confident that Homeland Security has all the information they need as of today that needed to be submitted tomorrow.
- F. A letter dated April 16, 2021, from the Assembly State of New York member, Robert J. Smullen, regarding their support the Town of Herkimer West Canada Creek Landslide Prevention Scoping Project.
- G. A letter received from State Senator, Peter Oberacker, regarding the Funding Request for the Town of Herkimer West Canada Creek Landslide Prevention Scoping Project.
- H. A letter received from the Congress of the United States Member, Claudia Tenney, regarding federal appropriations for the Fiscal Year 2022.

CARRIED AYES ALL

07) Routing.

- New York State Town Priorities 2021 pamphlet.
- Supervisor Frank stated that it will be available to the Board at the Clerk's Desk.
- Motion by Councilman Carbone, seconded by Councilwoman Penree, to place on file the New York State Town Priorities 2021 Pamphlet.

CARRIED AYES ALL

08) Resolutions.

- A. Resolution of Support 1834 Jail Restoration Project.
Motion by Councilman Carbone, seconded by Councilwoman Penree to get the resolution of Support 1834 Jail Restoration Project on the floor.

Supervisor Frank stated that it is basically our support for 2021 for part of the balance for the Friend of Historic Herkimer needs to get the project to move forward. He also stated it's our support in the amount of \$5,000.

CARRIED AYES ALL

Attorney Bray stated the only other resolution is the one Supervisor Frank emailed to him regarding the resolution for the Board to consider reimbursing the Greater Mohawk Valley Landbank. He also stated that he reviewed the language and he can read it for the Boards Consideration. Attorney Bray states the jist for the resolution was that the Prior landowner for the property 220 Main Rd, Trailer park owed significant water rents and those water rents went on to property taxes. The Town of Herkimer did receive a re-levy from the County of Herkimer. He states that the town of Herkimer did receive their money. Attorney Bray stated that in 2017 it was \$2,400.07, and in 2018 it was \$7,734.95 for a total overdue of \$10,135.02. He also stated in 2019 the Town entered into a payment plan with the prior owner to reimburse the town on the old water rents. The thought was if the County asked for the re-levy back, we wanted to have a plan in place to be collecting from the prior owner. Attorney Bray stated that we executed that payment plan in 2019 and we received a total of \$8,339.52 out of the \$10,135.02 overdue. So, the balance is now \$1735.50. He also stated that it looks as if the Landbank struck a deal with County of Herkimer and paid them \$40,000 as in for full reimbursement of 2017 and 2018 back property tax and water levies. The landbank paid the county. Attorney Bray stated that the County will not be coming to look for the money back from the Town and we have collected \$8,339.52, we have paid twice for the water. He stated that the idea is that we would remit the \$8339.52 back to the Landbank who paid the bill by paying the County. Attorney Bray stated that the resolution for the Boards consideration authorizes the Supervisor to reimburse the Greater Mohawk Valley Landbank \$8,339.52 which is the same amount that the Town of Herkimer was successful in collecting from the prior landowner. He stated that if the Town of Herkimer is successful in collecting anything further from the prior landowner, we would remit that to the Landbank as well. Supervisor Frank state that under report there is a letter from the Herkimer County Treasurer Enea that the county has revied the \$40,000 from the landbank. He also stated the Board will see a resolution cancelling the tax Lien on the premise of the county ad also a spread sheet relative to the back taxes that was owed for 2017, 2018 and 2019. He stated that this also supports the resolution as well proving the \$40,000 has gone from landbank to County.

Motion by Councilwoman Penree, seconded by Councilman Carbone to get this resolution on the floor.

Councilwoman Penree stated that it all sounds correct. Supervisor Frank stated that this along with the Landbanks new agreement with the County which extends to 2022 in September. He also stated it allows the project on the trailer park to progress. Supervisor Frank stated that it is good news for us. Attorney Bray will finish it up and send it over to the Town Clerk.

CARRIED AYES ALL

09) Old Business.

Water District: Supervisor Frank stated that he can report that because of vacation schedules we read our Mckennan Road Water District roughly 8 days earlier than usual so the usage was down, but when you divided it by number of days it accounted for the number of days that it usually is accounted for and the number of gallons it is usually used within the usual number of days. He stated that it is the same. Supervisor Frank stated that roughly we use about 26,000 gallons a week in the last billing period and the current billing period. He also stated that the rate increase was effective in this billing period as well. Supervisor Frank stated that for the Mckennan, Beardslee, and Highland Ave area, there is no new news other than Highway Superintendent McMannus had a conversation with the Water Operator Scott Blais from the Village. He stated that Blais is working on getting the various maps and documents together that would allow us to understand how people get their water in that area.

Supervisor Frank stated to Councilwoman Penree that he does not know if there is anything new to discuss at the water meeting tomorrow. He stated that he did the billing and the rate increase is effective. He does not know anything new relative to the situation with the village of Herkimer and Beardslee avenue. Supervisor Frank stated that Highway Superintendent McMannus reported that to his knowledge there are no water leaks going on in our districts. Supervisor Frank mentioned that he could call our potential water operator via phone call and see where he is with

licensing rather than have a meeting. Supervisor Frank stated he would correspond with the other to let them know that there will be no water meeting.

Mckennan Road Enhancement Project: Supervisor Frank stated that the soil boring is done which means they can start the final plans. He also stated that he does not know what the boring said and he does not know if no report is good news or bad news. Supervisor Frank asked Attorney Bray if we have gotten anywhere with the County and the landowners with the location of the pump. Attorney Bray states that the easement is drafted and it will be on the County Attorney's desk in the morning. Attorney Bray states that the County Attorney has to review it first. The County has to review it first because they have the Highway Easement, and the landowners because they own the property under that easement. Attorney Bray stated that the landowners may want to have their own attorney review it, which is their choice, but he figured the County should review it first. He also stated that he just needs to proof read it and get it to their desk in the morning.

West Herkimer Water: Attorney Bray stated that he had a conversation that the board would remember that they received two quotes for Bond Counsel. He also stated that they were both different in the way in which they were presented to them. Attorney Bray stated that he left it as he was going to have a conversation with the Consultant Engineers to make sure there was no overwhelming reason that they would have a preference of one over the other. The Consultant engineers only comment was that they wanted to make sure whoever we choose has experience with EFC. Attorney advised the engineers who the bond councils were and the engineers knew who both were and were comfortable with either one. Attorney Bray stated that they were familiar with the Bond Counsel we used in the past, and has no issue with us using them. Attorney Bray asked the consultant engineers where they were at in terms of the project. He was told that everything has been shut down since last fall, and a freeze on everything in Albany. Attorney Bray also stated that things are starting to beginning again. He stated that the biggest issue is that several municipalities are qualifying for that three-million-dollar grant and the Town of Herkimer also qualified as well and we were moving forward as far as the distribution system goes. Attorney Bray stated that there was another larger 10 million dollars grant out there for the transmission line. Last fall they thought that the Town would be able to get both, but now the ideas is that we could still get both but either IDA or Water Authority needs to be the lead agency on the Transmission line. It is Attorney Brays understanding we are trying to get the paperwork done so that IDA or Water Authority can become the lead agency so the Town can go after that grant. He also stated that nothing is being processed currently. The consultant engineers believe that it's a good idea to have a Bond Counsel in place and the resolution done so we can be ready to go after the bond. Attorney Bray stated that the two proposals, one of which is from New York City outfit. This outfit was recommended by the consultant engineers initially, and also the one has an outside number up to \$35,000. Attorney Bray stated the other Bond Counsel they received was the one they have been using for other projects, which is a little more detailed price wise in order to control the costs. Attorney Bray stated that he things the Town will be fine with either Bond Council. He recommends that the Town retains the Bond Counsel they have been using in the past. He also stated that they have a good relationship with that Bond Counsel. The consultant engineers said as long as they have experience with the EFC, they have no preference either way. Supervisor Frank recommends the firm in which the town has a long relationship with both USEA projects. He also stated that the Bond Counsel is as good as anybody else, and likes about the cost proposal is that it is more detailed. Supervisor Frank stated that its an almost alacart approach and it is not as scary as the other council. He also stated that they would be taking out a long-term loan and that its not a BAN where it has to be renewed every year which costs us money with the Bond Counsel. Supervisor Frank asked Attorney Bray if the board approves of using Hodgons Russ. Supervisor Frank asked if that was for one project or both of the projects. Attorney Bray stated that it was for whatever projects in which you will appoint them to do. Supervisor Frank stated that he wanted to get the ball rolling because they have spent a lot of money in the East Herkimer Sewer. He also stated that it was their money and not a loan. Supervisor Frank stated that they would get the money back when they took out the loan but they need the Bond Counsel to do this. He asks the Board if they would agree to accept the Hodgons Russ to get the necessary forms to Attorney Bray. Supervisor Frank stated that in order to get all the information we need of the West Herkimer Water they would need a Mylar survey which they will see under purchase orders.

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept Hotchkins Rush as the Bond Council for both projects.

East Herkimer Sewer District: Supervisor Frank stated that we need to just let the consultant engineers know that we are okay with the plans, but part of the issue was if the sewer lines would interfere with the water line. He also stated based on paper, and physical inspection by the water department, there is no conflict. Supervisor Frank stated that he did not know if any board members had any comments about the plans. He also stated that they need to tell the engineers to go back to the drawing board or go forward with the plans. Attorney Bray stated that he would like it if the board does approve the plans that he would like it to be in a formal resolution that he would circulate based on what the board is saying. Councilwoman Penree asked if the resolution would include the wording upon recommendation from the water Department. Supervisor Frank stated that what he liked about the plans is that it included addition manholes. He also stated that the manholes have to be long enough for the jets, which allows that if you need to clean out the sewers you got equipment long and large enough to do the job. He also stated that the reasoning for the extra manholes which would allow for potential expansion of some of the streets that intersect with Main Rd.

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Plans for the East Herkimer Sewer District.

CARRIED AYES ALL

Codes: Codes Enforcer Collis stated that in the last meeting they asked about the Kast Bridge building. He stated that he has sine talked with the guy and informed the board that he will be coming in to receive a building permit since part is caving in and the other is falling down. Codes Enforcer Collis mentioned that in the previous meeting Councilwoman Penree asked about the Rubino's property and he has set up a meeting with the brothers to show them what he wants them to be done to clean up the area in beginning of the next week. Councilman Carbone stated that he would go with Codes Enforcer Collis. Codes Enforcer Collis stated that he put a map in their packet of the Herkimer Central School on Gros Blvd. Codes Enforcer is wondering if the town board would send this to the planning board and zoning board to reconsider the R-2 zoning since that area has been really commercialized. He also stated that he does not think that anyone up in that area on the right where Annuto's Greenhouses are is buildable. Code's enforcer Collis will take care of all the paper work if the Board would just consider rezoning that area. Supervisor Frank asked Code's enforcer Collis how big of an area it is up there. Codes Enforcer Collis said its not a big area, and it's from past Annuto's towards the school on the right-hand side. Supervisor Frank asked if Annuto's is part of that area. Codes Enforcer Collis stated that Annuto's is all set for right now, but he will look into it more and include them if he needs to. Supervisor Frank asked the board if they would make the recommendation to determine the merit of rezoning that are with the ZBA and Planning Board to take a look at the east side of Gros Blvd.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and get the discussion on the floor of rezoning the area on Gros Blvd.
Supervisor Frank informed to Legislature Gaworecki how they are going to send a recommendation to his Planning board and ZBA to determine the merit of rezoning an area on Gros Blvd that is currently zoned R2 to rezone and allow business development. Legislature Gaworecki stated he can get the word of the investigation.

CARRIED AYES ALL

NYMIR: Supervisor Frank stated that several of us have taken the cyber security training, and some has gotten their certificates and some have not. He states that he is going to send an email around to see who has completed the training to let the insurance company know.

Landbank: Supervisor Frank stated that when speaking to the executive director, he asked Attorney Bray is they had a closing day. Supervisor Frank stated that they are anxious and concerning about some of their property they own. Attorney Bray stated that he looked through to see where they were with the title insurance. He also stated that it looks like there are two things he needs to follow up with. Attorney Bray stated they have noted exceptions to our coverage for underlying mortgages which should have been wiped out with tax foreclosure proceedings. He also stated that the landbank needs to give us one thing that Tolga did not send

to us in emails. He stated that he needs the same resolution they just passed on another property where the majority of the board approves the sale. He sated when Mark approves on the documents we can close.

- Dog Control Local Law: Tabled
- SunEast Solar Project: Tabled
- Subdivision Local Law: Tabled

10) New Business.
11) Reports

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Bank Reconciliation Report Dated February 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Cash report dated April 15, 2021 for February 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Northern Border regional Commission Quarterly Performance Progress Report 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Northern Border Regional Commission Annual Federal Financial Report 2020.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Town Justice Report for March 2021 from Karl Manne.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Town Justice Report for March 2021 from Michael Petucci.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated April 16, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense Report dated April 16, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the 220 Main RD., Herkimer and the Greater Mohawk Valley Landbank:

1. A letter dated April 15, 2021 from the Herkimer County Treasurer Kimberlee A. Enea.
2. Outstanding Property Taxes owed on Main Rd., from the Property Tax Department.
3. Report and Resolution Cancelling Tax Lien on premises in the Town of Herkimer.

CARRIED AYES ALL

**11) Purchase orders and Audit.
Purchase Orders.**

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Audit dated April 16, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and get on the floor the request for a survey to define boundaries of the West Herkimer Water District.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file a purchase order for a Four Camera System for the Garage Contractual.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file a purchase order of a Five Camera System for the Youth Program Outlay.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept on place on file the RFQ on the Tennis Court Equipment for the Town Park.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the RFQ for the Basketball equipment for the Town Park basketball court.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to close the public meeting.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to go into executive session.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to conclude Executive Session and resue regular meeting of the Town Board. No discussion, no decisions were made in executive session.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilwoman Penree, seconded by Councilman Carbone to adjourn to May 3, 2021. No discussion. All were in favor.

CARRIED AYES ALL

Danielle Beach, Herkimer Town Deputy Clerk